

MASS. R1.2: G94/G/2000

A Guide to Sales Tax on Meals



2000



Definitions



Common Questions



Taxable and Tax-Exempt Items



Filing and Payment Information



Department of Revenue Resources

GOVERNMENT DOCUMENTS
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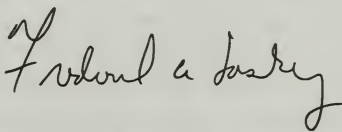
Dear Taxpayer:

Voluntary compliance is the cornerstone of our tax system, and getting taxpayers the information they need is one of the most important ways DOR helps taxpayers fulfill their obligations.

The purpose of this guide is to provide answers to the most frequently asked questions about the Massachusetts sales tax on meals, which is one of several "trustee taxes" administered by DOR. Trustee taxes — including meals, sales and use, withholding and room occupancy — are so-named because employees and customers are entrusting businesses to collect these taxes and to pay them over to the Commonwealth. In addition to explaining under what circumstances the sales tax on meals must be remitted to the state, this guide includes detailed information on taxable and nontaxable items, filing and payment requirements, forms and resources for getting tax help.

We hope you find this guide helpful and encourage you to contact our Customer Service Bureau at (617) 887-MDOR or toll-free in Massachusetts at 1-800-392-6089, if you need further assistance.

Sincerely,

A handwritten signature in black ink, reading "Frederick A. Laskey". The signature is fluid and cursive, with the first name "Frederick" being more prominent and the last name "Laskey" following in a similar style.

*Frederick A. Laskey
Commissioner of Revenue*

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This guide contains general information about the Massachusetts sales tax on meals. It describes the tax, what types of transactions are taxable and what a vendor must do to comply with the law.

A Guide to Sales Tax on Meals is designed to lead you through the basics of the sales tax on meals by explaining how to register as a vendor with the Massachusetts Department of Revenue (DOR), as well as how to collect and remit this tax to the Commonwealth. Sample forms will show you how to fill out your return. The guide also contains examples of situations in which meals are tax-exempt.

This guide is part of an ongoing series of publications that DOR has produced to keep the public informed about Massachusetts tax law. If you have further questions about the sales tax on meals, please call the Department's Customer Service Bureau at (617) 887-MDOR or toll-free in Massachusetts at 1-800-392-6089.

To obtain Massachusetts tax forms and publications by phone, call the Department's main information lines at (617) 887-MDOR or toll-free in Massachusetts at 1-800-392-6089. Please note that many forms and publications are available 24 hours a day by calling the Department's Interactive Voice Response system at the numbers listed above. DOR is pleased to offer taxpayers the convenience of obtaining many Massachusetts tax forms and publications via the DOR website (www.state.ma.us/dor). Certain forms and publications also can be obtained through DOR's Fax on Demand system; please call (617) 887-1900 using the handset and the keypad of your fax machine. Complete lists of forms and publications, along with their Fax on Demand codes, can be found on pages 23 and 24. We urge you to contact the Department directly — using this guide as a handy reference tool — if you have any further questions or comments.



*A meal includes food sold
on a "take out" basis*

As you read through this guide, you will see phrases such as "meals tax," "meals tax vendor," "meals tax return" and "meals tax liability." Please keep in mind that we have used these terms to make this guide easier to read and that the tax is actually a "sales tax" on meals, not a separate "meals tax."

Meal: *A meal is any food and/or beverage that has been prepared for immediate human consumption and provided by a restaurant or restaurant part of a store. A meal includes food or beverages sold on a "take out" or "to go" basis, whether or not they are packaged or wrapped, and whether or not they are taken from the premises of the restaurant.*

Restaurant: *A restaurant is any eating or drinking establishment — whether stationary or mobile, temporary or permanent — that is primarily engaged in the business of selling meals. Such establishments include but are not limited to:*

- Cafes
- Cafeterias
- Canteen trucks or wagons
- Catering businesses
- Cocktail lounges and bars
- Coffee shops
- Diners
- Dining rooms, including hotel and motel dining rooms
- Ice cream or other food product stands
- Lunch counters
- Private or social clubs
- Salad bars
- Snack bars including theatre snack bars

-
- *Street wagons or carts*
 - *Taverns*
 - *Vending machines or "honor snack trays" that sell snacks or candy with a sales price of \$1 or more. Honor snack trays consist of any vending arrangements in which snacks or candy are available in an open tray for employees in an establishment that normally does not sell food and for which payment is made on the honor system.*

Store: *A store is any establishment that is not primarily engaged in the business of selling meals. In general, food products for human consumption sold by stores are exempt from the sales tax. However, any store that contains an area, section or counter from which meals are sold must charge a sales tax on those meals. Such a store is considered to have a restaurant part.*



*Some food sold in stores
is taxable*

Examples of these stores include supermarkets, grocery stores, bakeries, delicatessens, convenience stores and markets.

Common Questions Regarding the Sales Tax on Meals

What is the Massachusetts sales tax on meals?

The Commonwealth of Massachusetts imposes a sales tax on meals sold by or purchased from restaurants or any part of a store considered by Massachusetts law to be a restaurant. The tax is 5 percent of the sales price of the meal. Generally, a food product commonly thought of as a grocery item is exempt from the sales tax on meals. More detailed information regarding the sales tax on meals is contained in Regulation 830 CMR 64H.6.5, Sales Tax on Meals, available by calling either DOR's Rulings and Regulations Bureau at (617) 626-3250 or DOR's Fax on Demand system at (617) 887-1900, using the handset and the keypad of your fax machine, and entering code number 2605.



See Regulation 830

CMR 64H.6.5

Sales Tax on Meals

Who is a meals tax vendor?

Anyone who sells meals that are subject to sales tax in Massachusetts is a meals tax vendor. If a liquor license holder operates a restaurant where meals are served, the holder of the license is presumed to be the meals tax vendor, whether the meals are served by the license holder or a concessionaire.

What are the responsibilities of a meals tax vendor?

Massachusetts meals tax vendors are responsible for:

- *Registering with the Massachusetts Department of Revenue (DOR) to collect the sales tax on meals;*
- *Collecting a 5 percent sales tax on all taxable sales of meals;*
- *Paying the full amount of tax due with the appropriate Massachusetts meals tax form on time; and*
- *Keeping complete, detailed and accurate records of gross receipts from all sales, whether taxable or not. More detailed information on the records that are required and how long to keep them can be found on pages 20 and 21 of this booklet.*

Are the responsibilities of out-of-state vendors the same as those of in-state vendors?

Yes. Out-of-state vendors who sell meals in Massachusetts generally have the same responsibilities as Massachusetts vendors.

How does a vendor register to collect the sales tax on meals?

To register to collect the sales tax on meals, vendors must file a Massachusetts Trustee Tax Application for Original Registration (Form TA-1) for their primary place of business. Vendors must file an Application for Additional Registration (Form TA-2) for each subsequent location. For more information on registration or to obtain forms, please call DOR's Customer Service Bureau at (617) 887-MDOR or toll-free in Massachusetts at 1-800-392-6089.

What happens after a vendor registers with DOR?

Once DOR has processed a vendor's Form TA-1, the Department will send a booklet of preprinted tax returns to your principal place of business. If a return is due, but you have not received your forms, send in your payment with an explanatory cover letter. The letter should specify:

- *Your name;*
- *Address;*
- *Federal identification number or Social Security number;*
- *Tax type;*
- *Tax period;*
- *Telephone number; and*
- *Date you filed your Form TA-1.*



Massachusetts
Department of Revenue
PO Box 7011
Boston, MA 02204

Mail your letter with payment to: Massachusetts Department of Revenue, PO Box 7011, Boston, MA 02204.

Please make your check payable to the Commonwealth of Massachusetts.

How do meals tax vendors show that they are registered properly to collect the sales tax on meals?

After registering with the Department, vendors will be issued a Meals and All Beverages Sales Tax Registration Certificate (Form MT-1) for each business location. This certificate must be displayed in a prominent location on the business premises so that it is easily visible to customers.

How does a vendor collect and remit the sales tax on meals?

Vendors must add a 5 percent sales tax to the selling price of every taxable transaction and collect it from the purchaser. The tax must be separately stated and separately charged on all invoices, bills, displays or contracts except on those solely for alcoholic beverages. You must complete and remit the appropriate sales tax return(s) to the Department, with payment in full, on or before the due date. More detailed information on filing and payment requirements can be found in the section of this guide entitled "Filing and Payment Information," which is on page 19.

What restaurant sales are taxable?

Generally, the meals tax is imposed on the sale by a restaurant, or any part of a store that is considered to be a restaurant, of any food or beverage (including alcohol) that is prepared for human consumption in such a manner that it does not need any significant additional preparation or cooking to make it edible.

Example: If a restaurant serves a patron a lasagna dinner, then the dinner is taxable.

However, if the restaurant also sells frozen lasagna dinners that patrons heat in their own homes, these dinners are not considered meals and therefore are not taxable because they require additional preparation.

Example: If a patron purchases a pizza and two cans of soda from a restaurant, then both the pizza and sodas are taxable.

However, if the patron purchases a pizza and a two-liter bottle of soda to go, then the pizza is taxable, but the bottle of soda is tax-exempt since it was sold in an unopened original container of at least 26 fluid ounces. (See "Tax-Exempt Items" on page 16 for more information.)

What other kinds of establishments must charge a meals tax?

Any store not ordinarily considered a restaurant also must charge a sales tax on certain food items if those items are sold in such a manner as to constitute a meal. A meal includes food or beverages that do not require further significant preparation, whether or not they are packaged or wrapped and whether or not they are taken from the premises where purchased. (A more detailed list of the types of food items subject to the sales tax on meals appears on pages 13 and 14.) The following types of stores must charge a sales tax on the taxable meals they provide. For more information on a store not specifically mentioned, please call DOR's Customer Service Bureau at (617) 887-MDOR or toll-free in Massachusetts at 1-800-392-6089.



Customer Service

Bureau

(617) 887-MDOR or

1-800-392-6089

Bakeries: *When a bakery sells food items commonly sold at snack bars, coffee shops or luncheon counters — such as taxable beverages or sandwiches — the entire bakery is considered a restaurant, and its sales of baked goods are taxable except when sold in units of six or more for*

off-premises consumption. If, however, the bakery in some way segregates the restaurant part of the store from the rest of the store, the bakery part remains a store, and its sales generally are not taxable. In that situation, only the restaurant part is considered a restaurant for tax purposes. A separate restaurant part cannot be established if taxable beverages or other meals must or may be purchased from the area, section or counter from which baked goods are sold. Some separation of space and function is necessary.

Delicatessens: A delicatessen generally is considered a store with a restaurant part. Prepared foods including meat, poultry or fish items — for example, fried chicken or barbecued spare ribs — are taxable if sold heated. Sandwich meats or cheeses (sliced or whole) and whole cooked meat, poultry or fish sold unheated are not taxable.

Grocery stores, markets, supermarkets: Sales from the bakery or delicatessen section of a grocery store, market or supermarket are taxed as previously described; sales of food products (groceries) are not taxable. However, a supermarket salad bar where shoppers purchase salads and pay by weight is a restaurant for purposes of the meals tax. Therefore, the salad is subject to tax.



Many prepared foods
sold in a grocery store
are taxable

Generally, the sale of prepared meat, poultry or fish items — including meat, poultry or fish parts or pieces, such as fried chicken wings or barbecued spare ribs — heated or in a combination plate is taxable.

Convenience stores: A convenience store's sales of the following items are taxable: poured or fountain-type beverages; combination plates sold as a unit reasonably and commonly considered a meal, whether or not heated; single-portion entrees such as lasagna, eggplant parmigiana or quiche, heated, or refrigerated if the store provides a heating unit, and whether or not prepackaged; heated prepared foods; quick meals, such as hot dogs, hamburgers, pizza or soup, heated, or refrigerated if the store provides a heating unit, and whether or not prepackaged; sandwiches, whether or not prepackaged or heated; and unpackaged snacks such as fresh-popped popcorn.

Video stores: A video store's sales of poured or fountain-type beverages or of unpackaged snacks, such as fresh-popped popcorn, are taxable. Prepackaged snacks sold at a video store are not taxable.

Honor snack trays and vending machines: Honor snack trays and vending machines that sell food generally are considered restaurants for purposes of the meals tax. An exception is made, however, when the honor tray or vending machine is used to sell only snacks (food or beverage) or candy with a sales price of less than \$1. If the sales price of any single item sold through an honor tray or vending machine is more than \$1, all sales are then taxable.

What store sales are subject to the sales tax on meals?

Sales of food and beverages by the stores previously listed are subject to the meals tax if the items are sold in a manner that constitutes a meal. The following items sold in stores are taxable.

Beverages: Poured beverages, such as a cup of coffee or a fountain soda.

Unpackaged baked goods: Unpackaged baked goods or other snacks sold by a store are taxable unless they are sold in units of six or more for off-premises consumption. Please note however that a bakery may sell any amount of unpackaged baked goods tax-free if it sells only baked goods, or if it keeps its restaurant sales separate as required by DOR regulation. Please see Regulation 830 CMR 64H.6.5, *Sales Tax on Meals*, available by calling either DOR's Rulings and Regulations Bureau at (617) 626-3250 or DOR's Fax on Demand system at (617) 887-1900, using the handset and the keypad of your fax machine, and entering code number 2605.



See Regulation 830

CMR 64H.6.5

Sales Tax on Meals

Hot foods: Any heated prepared food item.

Entrees: Single-portion-size entrees — such as lasagna, eggplant parmigiana or quiche — prepared for immediate consumption, if heated. Refrigerated items are also taxable if the store provides heating units (typically microwave ovens) in which customers may heat the entrees. Such entrees are taxable, whether they are prepackaged or not. Entrees sold frozen are not taxable.

Combination plates: Prepared foods sold as a unit in a manner reasonably and commonly considered a meal, heated or not. Foods that are otherwise not taxable do not become taxable simply because they are purchased together. The sale of a ½ pint of potato salad and a ½ pint of tuna salad for off-premises consumption is not taxable unless the items are presented or served as a unit in a manner that is reasonably and commonly considered a meal.

Quick meals: Quick meals prepared for immediate consumption such as hot dogs, hamburgers, pizza slices or soup, if heated. These items are also taxable when refrigerated if the store provides heating units (typically microwave ovens) in which customers may heat the quick meal. Quick meals sold frozen are not taxable. The sale of sandwiches is taxable whether prepackaged or heated.

Baked goods: Unpackaged baked goods generally are taxable unless sold in units of six or more for off-premises consumption. Baked goods in units of six or more includes any variety of items totaling six or more servings, for example: two bagels, three muffins and one danish; or a whole pie, cake, loaf of bread, etc.

What other types of items are included in the taxable sales price of a meal?

Generally, the sales tax imposed on a meal is based on the sales price of that meal. In certain circumstances, the sales price of a meal upon which the tax is imposed may include the tip, related room rental or recreational admission charges, or the cost of free or discounted meals. The following list outlines situations where these items are considered taxable.

Tips: Generally, gratuities, service charges or tips added by the restaurant to the price of a meal are included in the taxable sales price if they are part of the consideration paid for the meal. However, if the exact amounts of gratuities, service charges or tips are segregated as a separate fund (shown separately in the business' records supported by invoices) for the employees actually providing the services and are distributed in their entirety almost immediately to those employees, they are not included in the taxable sales price of the meal. If the gratuities or service charges are paid

only in part to the wait staff or other service personnel, or are used in whole or in part to pay their wages, the charges are included in the sales price of the meal and are subject to the sales tax.

Room rentals for serving meals: If a room is rented for the purpose of serving a meal, and a meal is provided by the operator of the room, the charge for the room is included in the price of the meal subject to the tax, whether separately stated or not. If a room is rented for purposes other than serving a meal, and light refreshments are provided, the sales tax only applies to the sales price of the refreshments if the charge is stated separately on both the records of the vendor and the bill to the customer.

Admission charges for entertainment or recreation: The sales tax is imposed on admission charges collected by a place of entertainment where food and/or alcoholic beverages are sold, unless all of the following requirements are met.

- A ticket is sold and collected as evidence of the admission charge;
- The patron is not required to purchase any food or beverages;
- The charge is for admission only and does not include any payment for food or beverages; and
- The admission charges are segregated from other receipts in the books and records of the place of entertainment.

Free or discounted meals: If a vendor offers customers, upon presentation of a coupon, a meal unconditionally free of charge with the purchase of another meal, two meals for the usual price of one, or a discount from the usual price of the meal, and the vendor receives any reimbursement, either monetary or promotional, from another source for the coupon, then the sales tax is imposed on what would have been the regular sales price of the meal without regard to the discount. If a vendor receives no reimbursement for the coupon from any source, the sales price subject to tax is the actual amount the vendor charges the customer.

Are certain restaurant sales tax-exempt?

Yes. Certain food and beverages are not considered meals when sold by a restaurant for off-premises consumption, and their sales are not subject to the meals tax. These include:

- Food sold by weight, liquid or dry measure, count or in unopened original containers or packages, such as meat products sold by the pound, provided that such foods are commonly sold in the same manner in a retail food store that is not a restaurant;
- Beverages sold in unopened original containers when sold as a unit having a capacity of at least 26 fluid ounces;
- A loaf of bread;
- A quart of milk; and
- A prepackaged pint, quart, half gallon, etc. of ice cream, provided that such foods are commonly sold in the same manner in a retail food store that is not a restaurant. (Handpacked ice cream, regardless of size, is taxable.)

What store sales are tax-exempt?



Unopened beverages sold
by stores are tax-exempt

The following items sold in stores are not taxable.

Beverages: Beverages sold in unopened original containers for off-premises consumption, whether purchased separately or in combination with other foods.

Prepackaged snacks and prepackaged baked goods: Items such as popcorn, chips, candy, ice cream, prepackaged pastries, novelties, etc. for off-premises consumption. Prepackaged means packaged in a sealed, unopened original container intended and marked by the manufacturer for individual sale.

“Party packs” and “party platters”: An assortment of meats, poultry or cheeses sold by weight or count, cut and arranged on platter(s), sold with other foods and designed to serve a number of people. Nonfood items sold as part of a party pack or party platter, such as paper plates and plastic cutlery, are subject to the sales tax. If the vendor does not

separately state the charge for these items, and collect and pay over the tax, the vendor must pay the use tax on the cost to the vendor of the nonfood items.

Are sales of meals to certain purchasers/organizations tax-exempt?

Yes. Sales of meals to the following purchasers are not taxable.

Meals sold to 501(c)(3) organizations: *Sales of meals to a religious, educational, charitable or scientific organization that is tax-exempt for federal purposes (exempt under Section 501(c)(3) of the Internal Revenue Code) generally are exempt if the organization uses the meals in the conduct of its exempt enterprise and if the meals are not resold. To obtain the exemption, the purchaser must provide the vendor with a properly completed copy of a Sales Tax Exempt Purchaser Certificate (Form ST-5) and a copy of its Certificate of Exemption (Form ST-2) issued by DOR. The vendor must ensure that these forms are complete and retain them to prove the sale was exempt. Otherwise, the sales tax on the meal can be assessed against the vendor.*



*Some purchasers are
exempt from paying
the meals tax*

Example: *A university holds meetings to plan alumni fund events. At these meetings the university provides meals, free of charge, to alumni who have agreed to solicit contributions to the fund for no compensation. As long as the vendors keep the required records (mentioned above), then the meals are exempt from the sales tax on meals.*

However, meals served at an event where attendees have purchased a ticket (e.g., a class reunion, high school prom, etc.) would be taxable.

Meals furnished to elderly or handicapped persons: *Sales of meals to an organization of elderly or handicapped persons residing in certain subsidized housing are generally tax-exempt if the organization has obtained a Golden Age Meals Tax Exemption Certificate (Form MT-4) from DOR, and the vendor obtains a valid Golden Age Meals Tax Exempt Purchaser Notice (Form MT-5) along with a copy of Form MT-4 from the purchaser and keeps a record of the sale. For more information on what a vendor must do to establish an exempt sale of meals to elderly or handicapped persons, please see Regulation 830 CMR 64H.6.6, Meals Furnished to Organizations of Elderly Persons or Organizations*

of Elderly or Handicapped Persons Residing in a Qualifying Housing Project, available by calling either DOR's Rulings and Regulations Bureau at (617) 626-3250 or DOR's Fax on Demand system at (617) 887-1900, using the handset and the keypad of your fax machine, and entering code number 2606.

Meals sold directly to the U.S. or Massachusetts government:

Sales of meals directly to the U.S. or Massachusetts government are exempt. The sale of meals to a U.S. or Massachusetts government agent is exempt only when the meal is paid for with a government check or with a government purchase order followed by a government check.

Are sales of meals by certain organizations tax-exempt?

Yes. Sales of meals by the following organizations are not taxable.

Sales of meals by health and day care facilities: *Sales of meals prepared by employees and served in a hospital, nursing home or licensed residential or day care facility.*

Hot lunch program for elderly persons: *Sales of government-funded meals served through qualifying school lunch programs to the elderly.*

Sales of meals by churches and synagogues: *Sales of meals prepared and served on the premises by members of a church or synagogue to its members and guests.*

Sales of meals by educational institutions or summer camps: *Sales of meals to students by educational institutions or their agents and/or sales of meals by summer camps for children or developmentally disabled individuals.*

Sales of meals by certain continuing care facilities: *Sales of meals to residents of certain continuing care facilities are tax-exempt. Continuing care facilities generally are residences that charge an up-front fee as full or partial consideration for room and board plus nursing or medical services. For more information, please see Technical Information Release 94-6, which is available either by calling DOR's Rulings and Regulations Bureau at (617) 626-3250 or DOR's Fax on Demand system at (617) 887-1900, using the handset on the keypad of your fax machine, and entering code number 1826.*



*Fax on Demand system
(617) 887-1900,
code number 1826*

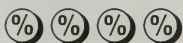
What is the schedule for filing and paying sales tax on meals?

Beginning January 1, 1998, all vendors collecting and remitting sales tax on meals must file monthly returns. Returns are due 20 days after the end of the filing period and payment of the tax is due with the return.

Reminder: In order to be considered timely-filed, a return must be received by DOR on or before the due date or, if sent by U.S. mail and delivered after the due date, it must be postmarked by the U.S. Postal Service at least two days prior to the due date.

What are the penalty and interest charges for late returns and payments?

Returns that are not filed on or before the due date are subject to penalty and interest charges.



Penalty for late payment
is ½ percent per month

The penalty for late payment is ½ of one percent of the unpaid tax shown on the return per month (or fraction thereof) up to a maximum of 25 percent. The penalty for failure to file a return by the due date is 1 percent of the balance due per month (or fraction thereof), up to a maximum of 25 percent.

If the tax is not paid when due, interest also will be charged at the federal short-term rate (which can change quarterly) plus 4 percentage points, compounded daily. If you wish to obtain information on these rates, please call DOR's Customer Service Bureau at (617) 887-MDOR or toll-free in Massachusetts at 1-800-392-6089. Rates also are published each quarter in the **Taxpayer Advisory Bulletin**. An 18 percent simple interest rate applies to all interest accruing on taxes due before January 1, 1993, even if the liability is assessed after that date.

Are there other penalties?

Yes. It is unlawful for a vendor to advertise or state to the public or any customer, directly or indirectly, that the sales tax on meals, or any part of it, will be assumed or absorbed by the vendor, or that it will not be added to the selling price, or that it will be refunded in whole or in part. This fine may be \$100 for each offense.

Willful tax evasion is a felony punishable by a fine up to \$100,000 for individuals or \$500,000 for corporations and/or imprisonment of up to five years. Willful failure to collect and to pay over taxes is also a felony and is punishable by a fine up to \$10,000 and/or imprisonment for up to five years.

Should a form be filed even if no tax was due for a given period?

Yes. A form should be filed for all periods, even when no tax is due — just enter zero in the appropriate places. Filing each period is necessary for DOR's record-keeping purposes. It also will help to avoid requests from DOR for filing information.

What records must a meals tax vendor keep?

A meals tax vendor must keep complete and accurate records of the gross receipts from all sales, whether they are taxable or not. Vendors also must retain copies of tax returns together with any supporting information necessary to verify the accuracy of the return. Sufficient records provide the vendor with evidence of each transaction and must include: cash register tapes showing each individual transaction; alcoholic beverages bar checks, if applicable; dining room meals checks; a separate daily receipts book or record for taxable and nontaxable sales; and copies of filed sales tax on meals returns. It is helpful if an establishment has a separate register, or one register with separate keys, for restaurant and nonrestaurant activities.

Dining room meals checks must be numbered serially and used in sequence for all meals service, with no number being repeated for a one-year period. Dining room meals checks must contain the name and address of the vendor and the wording: "5 Percent Mass. Sales Tax on Meals" with a space opposite this statement for insertion of the amount of the tax. All dining room meals checks must be tied securely and preserved in dated, daily bundles. The daily tax recordings must be entered in the vendor's records to substantiate the return for sales tax on meals.

Caterers must record all catering business transactions in a reservation ledger or book, stating all dates of jobs, names of purchasers, numbers of persons served, price totals and the proper amount of tax for all meals

served. Caterers not using dining room meals checks must number bills or contracts serially and retain them with the reservation book or ledger.

How long should meals tax records be kept?

Records must be retained for a minimum of three years from the date the return was filed or the date it was required to be filed, whichever is later. A return may be audited for up to six years after being filed for understating by more than 25 percent the tax that should have been reported on the return. You also should know that there is no limitation on the period for which DOR may request records if a vendor failed to file a return or filed a false or fraudulent return. Further information about retaining records is available in Regulation 830 CMR 62C.25.1, Records Retention. To obtain a copy, please call DOR's Rulings and Regulations Bureau at (617) 626-3250 or DOR's Fax on Demand system at (617) 887-1900, using the handset and the keypad of your fax machine, and entering code number 2604.



See Regulation 830

CMR 62C.25.1

Records Retention

Form example:

Example: Pam owns a cafe on Martha's Vineyard that is open only from June to September each year. As a vendor collecting sales tax on meals, she files a Sales Tax on Meals, Prepared Foods and All Beverages Return (Form ST-MAB-4). If Pam's total taxable sales of meals is \$1,000 during June, she must remit \$50 in meals tax (5 percent of \$1,000) for the month. Her completed Form ST-MAB-4 for the month will look like this:

| ST-MAB-4 MM | | MASSACHUSETTS DEPARTMENT OF REVENUE SALES TAX ON MEALS, PREPARED FOOD AND ALL BEVERAGES RETURN <small>YOU SHOULD FILE THIS FORM EVEN THOUGH NO TAX MAY BE DUE.</small> | |
|--|---|--|---------|
| FEDERAL IDENTIFICATION NUMBER | BE SURE THIS RETURN COVERS THE CORRECT PERIOD | FOR MONTH: | |
| 123-456-789 | | 6 / 00 | |
| IF ANY INFORMATION IS INCORRECT, SEE INSTRUCTIONS. <input type="checkbox"/> Check here if this is a final return. | Pam's Cafe | 1. GROSS RECEIPTS FROM THE SALE OF MEALS, INCLUDING FOOD AND ALL BEVERAGES | 1,000 — |
| | 123 Main St. | 2. TOTAL CHARGED FOR TAX EXEMPT MEALS | 0 — |
| | Martha's Vineyard MA 01234 | 3. TOTAL TAXABLE RECEIPTS (SUBTRACT LINE 2 FROM LINE 1) | 1,000 — |
| | | 4. TAX: (LINE 3 x .05) | 50 — |
| | | 5. PENALTIES | 0 — |
| | | 6. INTEREST | 0 — |
| | | 7. TOTAL (ADD LINES 4, 5 AND 6) | 50 — |
| <small>Return is due with payment on or before the 20th day of the month following the month indicated above. Make check payable to Commonwealth of Massachusetts. Mail to: Mass. Dept. of Revenue, P.O. Box 7940, Boston, MA 02204.</small> <small>I declare under the penalties of perjury that the return (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is a true, correct and complete return.</small> Signature <u>Pam Taxpayer</u> Title <u>Owner</u> Date <u>7/10/00</u> | | | |

What kind of help is available?

The instructions in the Department of Revenue's tax forms should provide answers to most taxpayer questions. For further information on Massachusetts sales tax on meals, please contact:

Department of Revenue, Customer Service Bureau

PO Box 7010

Boston, MA 02204

(617) 887-MDOR or toll-free in Massachusetts 1-800-392-6089

*DOR also issues a number of useful publications on various state tax issues. These publications include: tax-specific guides written in question and answer format such as **A Guide to the Department of Revenue: Your Taxpayer Bill of Rights**; a quarterly newsletter, the **Taxpayer Advisory Bulletin**, with updates on legislative, legal and Departmental decisions; and public written statements, such as Regulations, Technical Information Releases (TIRs), Directives and Letter Rulings, that explain the Commonwealth's tax laws in detail. Taxpayers also can call TaxTalk, the Department's 24-hour automated system of recorded tax help, at the main information lines listed below. DOR also offers Small Business Workshops designed to help all new or small businesses understand their filing requirements. Please call (617) 887-6400 for more information.*

Where to get forms and publications



To obtain Massachusetts forms and publications by phone, call the Department's main information lines at (617) 887-MDOR or toll-free in Massachusetts at 1-800-392-6089.



Many Massachusetts tax forms and publications also are available via the Internet. The address for the Department's website is www.state.ma.us/dor.



Certain forms and publications can be obtained through DOR's Fax on Demand system. A list of commonly requested forms and publications and their fax codes appears on pages 23 and 24. For a complete Fax on Demand menu, please dial (617) 887-1900 using the handset and the keypad of your fax machine.

Commonly Requested Forms and Publications



DOR's Fax on Demand

(617) 887-1900

+ fax code number

DOR offers a number of publications on various state tax issues. Most are available by calling DOR's main information lines at (617) 887-MDOR or toll-free in Massachusetts at 1-800-392-6089, or by visiting the DOR website at www.state.ma.us/dor. Many of the documents below also are available through DOR's Fax on Demand system. Please call (617) 887-1900 using the handset and the keypad of your fax machine for a complete menu, or use the code number following the document title below. Only documents followed by a fax code number may be obtained through Fax on Demand.

| Form Number | Title/Fax Code |
|--------------------------|--|
| MT-1 | <i>Meals and All Beverages Sales Tax Registration Certificate</i> |
| ST-BDR-Meals | <i>Claim for Bad Debt Reimbursement and Instructions/379</i> |
| ST-MAB-4 | <i>Sales Tax on Meals, Prepared Food and All Beverages Return and Instructions</i> |
| ST-MAB-AM | <i>Amended Sales Tax on Meals, Prepared Food and All Beverages Return and Instructions/392</i> |
| ST-12EC | <i>Exempt Container Certificate and Instructions/395</i> |
| TA-1 | <i>Massachusetts Trustee Tax Application for Original Registration/314 Instructions for Completing Form TA-1/814</i> |
| TA-2 | <i>Application for Additional Registration/315 Instructions for Completing Form TA-2/815</i> |
| TaxTalk | <i>TaxTalk Menu of Topics/4000</i> |
| Regulation Number | Title/Fax Code |
| 830 CMR 64H.6.5 | <i>Sales Tax on Meals/2605</i> |

Publication Title/Fax Code

A Guide to the Department of Revenue: Your Taxpayer Bill of Rights/3005 (24 pages)

Guide to Filing Your Massachusetts Income Taxes/3010

A Guide to Withholding of Taxes on Wages/3007 (14 pages)

Should You Be Paying Estimated Taxes?/3008 (4 pages)

A Guide to Sales and Use Tax/3009 (18 pages)

A Guide to Sales Tax on Meals/3012 (14 pages)

A Guide to Estate Taxes (Applicable to dates of death prior to January 1, 1997)/3011 (14 pages)

A Guide to Estate Taxes (Applicable to dates of death on or after January 1, 1997)/3013 (10 pages)

Taxpayer Advisory Bulletin is published quarterly online with updates on legislative, legal and Departmental decisions and is available on the DOR website at www.state.ma.us/dor.

DOR Regulations, Technical Information Releases (TIRs), Directives and Letter Rulings (LRs) are prepared on general tax issues as well as specific taxpayer inquiries and are published in the **MASSTAX Guide** or are available by calling DOR's Rulings and Regulations Bureau at (617) 626-3250. Copies also are available via fax or the Internet.

Registration Packet contains registration materials for business taxpayers, tax information, sample forms and informational guides, and is available by calling (617) 887-6400.

MASSTAX Guide contains five volumes covering all state taxes and DOR administrative procedures; it is available for purchase through West Group (1-800-328-9352) or for reference at many law libraries and at the State House Library.

Massachusetts Department of Revenue Telephone Directory

All numbers are in the 617 area code, unless otherwise indicated.

Executive Administration

51 Sleeper Street
Boston, MA 626-2201

Commissioner's Office 626-2201
Dispute Resolution Office 626-2201
Office of the Taxpayer Advocate 626-2280
Office of Tax Policy Analysis 626-2100
Problem Resolution Office 626-3833

Communications Office 626-2251
Publishing Services Office 626-2800

Criminal Investigations
Bureau 887-6780
Toll-free in MA 1-800-792-5254

Audit Division

200 Arlington Street, Room 4300
Chelsea, MA 887-6800

Bureau of Desk Audit 887-6900
Exempt Organization Unit 887-6970
Installment Sales Unit 887-6950
Manufacturing Corporation
Classification Unit 887-6980
Nonprofit Corporations 887-6970
Out-of-State Contracts 887-6995
Security Corporation
Classification Unit 887-6990

Special Enforcement
Unit 887-6764
IFTA 887-5080

Estate Tax Unit 887-6930
Case Status 887-6930
Estate Assessing 887-6930
Fiduciary 887-MDOR
Forms 887-6940
Release of Lien 887-6930
Taxpayer Assistance 887-MDOR

New England Audit Bureau
Headquarters 887-6700
Banking & Insurance 887-6710

Massachusetts Audit Offices
Fall River, MA (508) 678-2844
Hyannis, MA (508) 771-2414
Pittsfield, MA (413) 499-2206
Springfield, MA (413) 784-1000
Worcester, MA (508) 792-7300

Multistate Audit
Bureau Headquarters (312) 332-1502

Out-of-State Audit Offices
Atlanta, GA (404) 874-2922
Burbank, CA (818) 840-9059
Chicago, IL (312) 899-9040

Houston, TX (713) 784-7225
New York, NY (212) 768-2750
Pittsburgh, PA (412) 281-2776

Child Support Enforcement Division

51 Sleeper Street
Boston, MA
Toll-free nationwide 1-800-332-2733

Compliance Division

200 Arlington Street
Chelsea, MA 887-6400

Collections Bureau 887-6400
Offers in Final Settlement 887-6271
REAP 887-6271
Seizures 887-6270

Filing Enforcement
Bureau 887-6400

Massachusetts Compliance Offices
Fall River, MA (508) 678-2844
Hyannis, MA (508) 771-2414
Pittsfield, MA (413) 499-2206
Springfield, MA (413) 784-1000
Worcester, MA (508) 792-7300

Small Business Workshop 887-6400

Inspectional Services Division

51 Sleeper Street
Boston, MA

Internal Affairs Office 626-2130

Internal Audit Office 626-2190

Legal Division

51 Sleeper Street
Boston, MA

General Counsel's Office 626-3200

Appeal & Review Bureau 626-3300

Litigation Bureau 626-3225
Bankruptcy Unit 626-3875

Rulings & Regulations
Bureau 626-3250

Local Services Division

51 Sleeper Street
Boston, MA 626-2300

Processing Division

Executive Offices 887-5010

Automated Processing
Bureau 887-5030

Electronic Business Transactions 887-5020
Wage Reporting 887-5030

Individual Tax Filing
Telefile 887-5111
Electronic Filing 887-5008

Data Integration Bureau 887-5150
Central Registration Unit 887-5086

Excise Tax Unit 887-5060
Alcoholic Beverage 887-5120
Cigarette 887-5090
Gasoline 887-5070
Motor Carriers 887-5110
Special Fuels 887-5040

Records Management
Unit 887-4800

Revenue Accounting Unit

51 Sleeper Street
Boston, MA 626-3550

Taxpayer Service Division

Local Office
19 Staniford Street, 1st floor
Boston, MA 887-MDOR
(6367)

Toll-Free in MA 1-800-392-6089

Abatelements 887-MDOR
Bill and Payment Inquiries 887-MDOR
Certificate Unit 887-6550
Corporation Excise 887-MDOR
Corporate Trusts 887-MDOR
Estate Tax 887-MDOR
Estimated Taxes 887-MDOR
Fiduciary Taxes 887-MDOR
Forms Supply 887-MDOR
Income Tax 887-MDOR
Meals Tax 887-MDOR
Motor Vehicles 887-MDOR
Nonresident Information 887-MDOR
Partnerships 887-MDOR
Payment Agreements 887-MDOR
Refunds 887-MDOR
Room Occupancy Excise 887-MDOR
Sales and Use Tax 887-MDOR
Teletypewriter (TTY) 887-6140
Withholding 887-MDOR

To report allegations of suspected misconduct or impropriety involving Department of Revenue employees, please call the Inspectional Services Division's Integrity Hot Line at 1-800-568-0085 or write to PO Box 9480, Boston, MA 02205.

MASSACHUSETTS SALES/USE TAX COLLECTION SCHEDULE

5% Sales Tax

Including Prepared Food and All Beverages

| Amount of Sale | Tax | Amount of Sale | Tax | Amount of Sale | Tax | Amount of Sale | Tax |
|-----------------|--------|-----------------|--------|-------------------|--------|-------------------|---------|
| \$.10 – \$.29 | \$.01 | \$8.10 – \$8.29 | \$.41 | \$16.10 – \$16.29 | \$.81 | \$24.10 – \$24.29 | \$ 1.21 |
| .30 – .49 | .02 | 8.30 – 8.49 | .42 | 16.30 – 16.49 | .82 | 24.30 – 24.49 | 1.22 |
| .50 – .69 | .03 | 8.50 – 8.69 | .43 | 16.50 – 16.69 | .83 | 24.50 – 24.69 | 1.23 |
| .70 – .89 | .04 | 8.70 – 8.89 | .44 | 16.70 – 16.89 | .84 | 24.70 – 24.89 | 1.24 |
| .90 – 1.09 | .05 | 8.90 – 9.09 | .45 | 16.90 – 17.09 | .85 | 24.90 – 25.09 | 1.25 |
| 1.10 – 1.29 | .06 | 9.10 – 9.29 | .46 | 17.10 – 17.29 | .86 | 25.10 – 25.29 | 1.26 |
| 1.30 – 1.49 | .07 | 9.30 – 9.49 | .47 | 17.30 – 17.49 | .87 | 25.30 – 25.49 | 1.27 |
| 1.50 – 1.69 | .08 | 9.50 – 9.69 | .48 | 17.50 – 17.69 | .88 | 25.50 – 25.69 | 1.28 |
| 1.70 – 1.89 | .09 | 9.70 – 9.89 | .49 | 17.70 – 17.89 | .89 | 25.70 – 25.89 | 1.29 |
| 1.90 – 2.09 | .10 | 9.90 – 10.09 | .50 | 17.90 – 18.09 | .90 | 25.90 – 26.09 | 1.30 |
| 2.10 – 2.29 | .11 | 10.10 – 10.29 | .51 | 18.10 – 18.29 | .91 | 26.10 – 26.29 | 1.31 |
| 2.30 – 2.49 | .12 | 10.30 – 10.49 | .52 | 18.30 – 18.49 | .92 | 26.30 – 26.49 | 1.32 |
| 2.50 – 2.69 | .13 | 10.50 – 10.69 | .53 | 18.50 – 18.69 | .93 | 26.50 – 26.69 | 1.33 |
| 2.70 – 2.89 | .14 | 10.70 – 10.89 | .54 | 18.70 – 18.89 | .94 | 26.70 – 26.89 | 1.34 |
| 2.90 – 3.09 | .15 | 10.90 – 11.09 | .55 | 18.90 – 19.09 | .95 | 26.90 – 27.09 | 1.35 |
| 3.10 – 3.29 | .16 | 11.10 – 11.29 | .56 | 19.10 – 19.29 | .96 | 27.10 – 27.29 | 1.36 |
| 3.30 – 3.49 | .17 | 11.30 – 11.49 | .57 | 19.30 – 19.49 | .97 | 27.30 – 27.49 | 1.37 |
| 3.50 – 3.69 | .18 | 11.50 – 11.69 | .58 | 19.50 – 19.69 | .98 | 27.50 – 27.69 | 1.38 |
| 3.70 – 3.89 | .19 | 11.70 – 11.89 | .59 | 19.70 – 19.89 | .99 | 27.70 – 27.89 | 1.39 |
| 3.90 – 4.09 | .20 | 11.90 – 12.09 | .60 | 19.90 – 20.09 | 1.00 | 27.90 – 28.09 | 1.40 |
| 4.10 – 4.29 | .21 | 12.10 – 12.29 | .61 | 20.10 – 20.29 | 1.01 | 28.10 – 28.29 | 1.41 |
| 4.30 – 4.49 | .22 | 12.30 – 12.49 | .62 | 20.30 – 20.49 | 1.02 | 28.30 – 28.49 | 1.42 |
| 4.50 – 4.69 | .23 | 12.50 – 12.69 | .63 | 20.50 – 20.69 | 1.03 | 28.50 – 28.69 | 1.43 |
| 4.70 – 4.89 | .24 | 12.70 – 12.89 | .64 | 20.70 – 20.89 | 1.04 | 28.70 – 28.89 | 1.44 |
| 4.90 – 5.09 | .25 | 12.90 – 13.09 | .65 | 20.90 – 21.09 | 1.05 | 28.90 – 29.09 | 1.45 |
| 5.10 – 5.29 | .26 | 13.10 – 13.29 | .66 | 21.10 – 21.29 | 1.06 | 29.10 – 29.29 | 1.46 |
| 5.30 – 5.49 | .27 | 13.30 – 13.49 | .67 | 21.30 – 21.49 | 1.07 | 29.30 – 29.49 | 1.47 |
| 5.50 – 5.69 | .28 | 13.50 – 13.69 | .68 | 21.50 – 21.69 | 1.08 | 29.50 – 29.69 | 1.48 |
| 5.70 – 5.89 | .29 | 13.70 – 13.89 | .69 | 21.70 – 21.89 | 1.09 | 29.70 – 29.89 | 1.49 |
| 5.90 – 6.09 | .30 | 13.90 – 14.09 | .70 | 21.90 – 22.09 | 1.10 | 29.90 – 30.09 | 1.50 |
| 6.10 – 6.29 | .31 | 14.10 – 14.29 | .71 | 22.10 – 22.29 | 1.11 | 30.10 – 30.29 | 1.51 |
| 6.30 – 6.49 | .32 | 14.30 – 14.49 | .72 | 22.30 – 22.49 | 1.12 | 30.30 – 30.49 | 1.52 |
| 6.50 – 6.69 | .33 | 14.50 – 14.69 | .73 | 22.50 – 22.69 | 1.13 | 30.50 – 30.69 | 1.53 |
| 6.70 – 6.89 | .34 | 14.70 – 14.89 | .74 | 22.70 – 22.89 | 1.14 | 30.70 – 30.89 | 1.54 |
| 6.90 – 7.09 | .35 | 14.90 – 15.09 | .75 | 22.90 – 23.09 | 1.15 | 30.90 – 31.09 | 1.55 |
| 7.10 – 7.29 | .36 | 15.10 – 15.29 | .76 | 23.10 – 23.29 | 1.16 | 31.10 – 31.29 | 1.56 |
| 7.30 – 7.49 | .37 | 15.30 – 15.49 | .77 | 23.30 – 23.49 | 1.17 | 31.30 – 31.49 | 1.57 |
| 7.50 – 7.69 | .38 | 15.50 – 15.69 | .78 | 23.50 – 23.69 | 1.18 | 31.50 – 31.69 | 1.58 |
| 7.70 – 7.89 | .39 | 15.70 – 15.89 | .79 | 23.70 – 23.89 | 1.19 | 31.70 – 31.89 | 1.59 |
| 7.90 – 8.09 | .40 | 15.90 – 16.09 | .80 | 23.90 – 24.09 | 1.20 | 31.90 – 32.09 | 1.60 |

To calculate the sales tax on any amount over \$32.09, multiply the purchase price by .05 and round off to the nearest cent.

THE TAX MUST BE COMPUTED ON THE TOTAL SALE (WITH THE EXCEPTION OF INDIVIDUAL CLOTHING ITEMS OVER \$175) AND NOT ON PRICES OF INDIVIDUAL ITEMS INCLUDED IN THE SALE.

The purpose of this publication is to provide taxpayers with general information about Massachusetts tax laws and Department of Revenue policies and procedures as of November 1, 1999. It is not designed to address all questions in detail, and taxpayers are encouraged to seek further guidance as described throughout this guide. Nothing contained within this publication supersedes, alters or otherwise changes any provisions of Massachusetts General Laws, Massachusetts Department of Revenue Regulations or Rulings or any other sources of the law.



Department of Revenue Offices

Toll-free in Massachusetts: **1-800-392-6089**



Boston

19 Staniford Street, MA 02114
(617) 887-MDOR

Fall River

218 South Main Street, MA 02721
(508) 678-2844

Hyannis

1019 Iyanough Road, MA 02601
(508) 771-2414

Pittsfield

333 East Street, MA 01201
(413) 499-2206

Springfield

436 Dwight Street, MA 01103
(413) 784-1000

Worcester

40 Southbridge Street, MA 01608
(508) 792-7300
